

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BRIAN NUCKOLS,

Plaintiff,

vs.

Case No. 07-14301

BLUE CROSS BLUE SHIELD
OF MICHIGAN,

HON. AVERN COHN

Defendant.

ORDER DENYING PLAINTIFF'S SECOND MOTION TO DISQUALIFY

I.

Brian Nuckols, proceeding pro se, has filed a complaint naming Blue Cross Blue Shield of Michigan as defendant. From what can be gleaned, plaintiff alleges he was subjected to sexual harassment during his employment with defendant.

Before the Court is plaintiff's second motion to disqualify the undersigned under 28 U.S.C. § 455. For the reasons that follow, the motion is DENIED.

II.

On October 29, 2007, the Court denied plaintiff's first motion to disqualify. The Court explained in part that

plaintiff has not demonstrated any of the factors requiring disqualification as provided by federal statute. Construed in the most liberal light, plaintiff simply disagrees with the Court's dismissal of one of his prior cases. Plaintiff has not shown that the Court harbors "any personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding...." 28 U.S.C. § 455(b)(1). Plaintiff has not referred to any extrajudicial conduct arising out of this Court's background and associations. Therefore, plaintiff has not presented a factual basis to support a motion under

Section 455 and his motion is without merit.

In his second motion to disqualify, plaintiff presents essentially the same grounds for disqualification. That is, plaintiff believes that the Court's sua sponte dismissal of his complaint in another case, Nuckols v. United States District Court for the Eastern District of Michigan, 07-14001, shows a bias or prejudice against plaintiff. As explained in the first order denying plaintiff's motion to disqualify, plaintiff's dissatisfaction with the dismissal of case no. 07-14001 is not grounds for disqualification in this case. The Court's decision in case no. 07-14001 does not affect any rulings in this case. Disqualification is not warranted.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: November 19, 2007

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and Brian Nuckols, P.O. Box 3444, Farmington Hills, MI 48333-3444 on this date, November 19, 2007, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160